



DEPARTMENT OF TRANSPORTATION
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

U.S. DOT Docket Number NHTSA-2016-0065

Reports, Forms, and Record keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation.

ACTION: Request for public comment on an extension of a currently approved collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes a collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments using any of the following methods. All comments must have the applicable DOT docket number (e.g., NHTSA-2016-0065) noted conspicuously on them.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Mail: Docket Management Facility, M-30: U.S. Department of Transportation, 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, Washington, D.C. 20590-0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue S.E., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. Telephone: 1-800-647-5527.
- Fax: 202-493-2251

Instructions: All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the *Federal Register* published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketInfo.dot.gov>.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Alex Ansley, Recall Management Division (NVS-215), Room W48-301, NHTSA, 1200 New Jersey Ave., Washington, DC 20590.

Telephone: (202) 493-0481.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the Federal Register providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation, see 5 CFR 1320.8(d), an agency must ask for public comment on the following:

- i) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- ii) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- iii) how to enhance the quality, utility, and clarity of the information to be collected; and
- iv) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following collection of information:

Title: Defect and Noncompliance Reporting and Notification

Type of Request: Extension of a currently approved information collection

OMB Control Number: 2127-0004

Affected Public: Businesses or individuals

Abstract: This notice requests comment on NHTSA's proposed extension to approved collection of information OMB No. 2127-0004. This collection covers the information collection requirements found within various statutory sections in the Motor Vehicle Safety Act of 1966 (Act), 49 U.S.C. § 30101, *et seq.*, that address and require manufacturer notifications to NHTSA of safety-related defects and failures to comply with Federal Motor Vehicle Safety Standards (FMVSS) in motor vehicles and motor vehicle equipment, as well as the provision of particular information related to the ensuing owner and dealers notifications and free remedy campaigns that follow those notifications. The sections of the Act imposing these requirements include 49 U.S.C. §§ 30118, 30119, 30120, and 30166. Many of these requirements are implemented through, and addressed with more specificity in, 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports* (Part 573) and 49 CFR 577, *Defect and Noncompliance Notification*.

Pursuant to the Act, motor vehicle and motor vehicle equipment manufacturers are obligated to notify, and then provide various information and documents, to NHTSA in the event a safety defect or noncompliance with Federal Motor Vehicle Safety Standards (FMVSS) is identified in products they manufactured. See 49 U.S.C. § 30118(b) and 49 CFR § 573.6 (requiring manufacturers to notify NHTSA, and provide certain information, when they learn of a safety defect or noncompliance). Manufacturers are further required to notify owners, purchasers, dealers and distributors about the safety defect or noncompliance. See 49 U.S.C. §§

30118(b), 30120(a), and 49 CFR §§ 577.7, 577.13. They are required to provide to NHTSA copies of communications pertaining to recall campaigns that they issue to owners, purchasers, dealers, and distributors. See 49 U.S.C. § 30166(f) and 49 CFR § 573.6(c)(10).

Manufacturers are also required to file with NHTSA a plan explaining how they intend to reimburse owners and purchasers who paid to have their products remedied before being notified of the safety defect or noncompliance, and explain that plan in the notifications they issue to owners and purchasers about the safety defect or noncompliance. See 49 U.S.C. § 30120(d) and 49 CFR § 573.13. They are further required to keep lists of the respective owners, purchasers, dealers, distributors, lessors, and lessees of the products determined to be defective or noncompliant and involved in a recall campaign, and are required to provide NHTSA with a minimum of six quarterly reports reporting on the progress of their recall campaigns. See 49 CFR §§ 573.8 and 573.7, respectively.

The Act and Part 573 also contain numerous information collection requirements specific to tire recall and remedy campaigns. These requirements relate to the proper disposal of recalled tires, including a requirement that the manufacturer conducting the tire recall submit a plan and provide specific instructions to certain persons (such as dealers and distributors) addressing that disposal, and a requirement that those persons report back to the manufacturer certain deviations from the plan. See 49 U.S.C. § 30120(d) and 49 CFR § 573.6(c)(9). They also require the reporting to NHTSA of intentional and knowing sales or leases of defective or noncompliant tires.

49 U.S.C. §30166(n), and its implementing regulation found at 49 CFR § 573.10, mandates that anyone who knowingly and willfully sells or leases for use on a motor vehicle a

defective tire or a tire that is not compliant with FMVSS, and with actual knowledge that the tire manufacturer has notified its dealers of the defect or noncompliance as required under the Act, is required to report that sale or lease to NHTSA no more than five working days after the person to whom the tire was sold or leased takes possession of it.

Estimated Burden: The approved information collection associated with 49 CFR Part 573 and portions of 49 CFR Part 577 presently holds an estimated annual burden of 46,138 hours associated with an estimated 280 respondents per year. For information concerning how we calculated these estimates please see the Federal Register Notices 78 FR 51381 (August 20, 2013).

Our prior estimates of the number of manufacturers each year that would be required to provide information under 49 CFR Part 573, the number of recalls for which 49 CFR Part 573 information collection requirements would need to be met, and the number of burden hours associated with the requirements currently covered by this information collection require adjustment as explained below.

Based on current information, we now estimate 275 distinct manufacturers filing an average of 854 Part 573 Safety Recall Reports each year. This is a change from our previous estimate of 680 Part 573 Safety Recall Reports filed by 280 manufacturers each year.

We continue to estimate that it takes a manufacturer an average of 4 hours to complete each notification report to NHTSA and that maintenance of the required owner, purchaser, dealer, and distributors lists requires 8 hours a year per manufacturer. Accordingly, the subtotal estimate of annual burden hours related to the reporting to NHTSA of a safety defect or

noncompliance and maintenance of owner and purchaser lists is 5,616 hours annually ((854 notices x 4 hours/report) + (275 MFRs x 8 hours)).

In addition, we continue to estimate an additional 2 hours will be needed to add to a manufacturer's Part 573 Safety Recall Report details relating to the intended schedule for notifying its dealers and distributors, and tailoring its notifications to dealers and distributors in accordance with the requirements of 49 CFR § 577.13. This would total to an estimated 1,708 hours annually (854 notices x 2 hours/report).

49 USC § 30166 (f) requires vehicle manufacturers to provide to the Agency copies of all communications regarding defects and noncompliances sent to owners, purchasers, and dealerships. Manufacturers must index these communications by the year, make, and model of the vehicle as well as provide a concise summary of the subject of the communication. We estimate this burden requires 30 minutes for each vehicle recall. This would total to an estimated 380 hours annually (760 vehicle recalls x .5 hours).

In the event a manufacturer supplied the defect or noncompliant product to independent dealers through independent distributors, that manufacturer is required to include in its notifications to those distributors an instruction that the distributors are to then provide copies of the manufacturer's notification of the defect or noncompliance to all known distributors or retail outlets further down the distribution chain within five working days. *See* 49 CFR § 577.7(c)(2)(iv). As a practical matter, this requirement would only apply to equipment manufacturers since vehicle manufacturers generally sell and lease vehicles through a dealer network, and not through independent distributors. We believe our previous estimate of roughly 80 equipment recalls per year needs to be adjusted to 95 equipment recalls per year to better

reflect recent recall figures. Although the distributors are not technically under any regulatory requirement to follow that instruction, we expect that they will, and have estimated the burden associated with these notifications (identifying retail outlets, making copies of the manufacturer's notice, and mailing) to be 5 hours per recall campaign. Assuming an average of 3 distributors per equipment item, (which is a liberal estimate given that many equipment manufacturers do not use independent distributors) the total number of burden hours associated with this third party notification burden is approximately 1,425 hours per year (95 recalls x 3 distributors x 5 hours).

As for the burden linked with a manufacturer's preparation of and notification concerning its reimbursement for pre-notification remedies, we continue to estimate that preparing a plan for reimbursement takes approximately 8 hours annually, and that an additional 2 hours per year is spent tailoring the plan to particular defect and noncompliance notifications to NHTSA and adding tailored language about the plan to a particular safety recall's owner notification letters. In sum, these required activities add an additional 3,908 annual burden hours ((275 manufacturers x 8 hours) + (854 recalls x 2 hours)).

The Safety Act and 49 CFR Part 573 also contain numerous information collection requirements specific to tire recall and remedy campaigns, as well as a statutory and regulatory reporting requirement that anyone who knowingly and intentionally sells or leases a defective or noncompliant tire notify NHTSA of that activity.

Manufacturers are required to include specific information related to tire disposal in the notifications they provide NHTSA concerning identification of a safety defect or noncompliance with FMVSS in their tires, as well as in the notifications they issue to their dealers or other tire outlets participating in the recall campaign. *See* 49 CFR §573.6(c)(9). We now estimate that the

Agency administers 12 tire recalls each year, on average, revised down from our previous estimate of 15 tire recall each year. We estimate that the inclusion of this additional information will require an additional two hours of effort beyond the subtotal above associated with non-tire recall campaigns. This additional effort consists of one hour for the NHTSA notification and one hour for the dealer notification for a total of 24 burden hours (12 tire recalls a year x 2 hours per recall).

Manufacturer owned or controlled dealers are required to notify the manufacturer and provide certain information should they deviate from the manufacturer's disposal plan. Consistent with our previous analysis, we continue to ascribe zero burden hours to this requirement since to date no such reports have been provided and our original expectation that dealers would comply with manufacturers' plans has proven true.

Accordingly, we estimate 24 burden hours a year will be spent complying with the tire recall campaign requirements found in 49 CFR § 573.6(c)(9).

Additionally, because the agency has yet to receive a single report of a defective or noncompliant tire being intentionally sold or leased, our previous estimate of zero burden hours remains unchanged with this notice.

The previous clearance for this information collection allowed for start-up costs for the Agency's VIN Look-up system and a new regulation that required manufacturers to create a VIN Look-up service on their respective websites. As these systems were launched successfully in August 2014, the start-up estimates for costs and burden will now be removed. The estimated costs to industry for one-time infrastructure expenses to create a VIN-based recalls lookup

service consisting of 108 hours, and costing a total of \$45,000, will now be removed from this information collection.

Each manufacturer was also required to establish requirements, analysis, and designs for their new recalls look-up tools. These additional burdens stemmed from: the creation of the VIN search interface; database setup to host the recall information; data refresh procedures to populate recall information; server side VIN code lookup and recall status retrieval; integration with existing manufacturer website; and application testing. We estimated these burdens to total 1,332 hours and \$130,005 and these costs will now be removed from this information collection.

We continue to believe nine vehicle manufacturers, who did not operate VIN-based recalls lookup systems prior to August 2013, incur certain recurring burdens on an annual basis. We estimate that 100 burden hours will be spent on system and database administrator support. These 100 burden hours include: backup data management and monitoring; database management, updates, and log management; and data transfer, archiving, quality assurance, and cleanup procedures. We estimate another 100 burden hours will be incurred on web/application developer support. These burdens include: operating system and security patch management; application/web server management; and application server system and log files management. We estimate these burdens will total 1,800 hours each year (9 MFRs x 200 hours). We estimate the recurring costs of these burden hours will be \$30,000 per manufacturer¹. We continue to estimate that the total cost to the industry from these recurring expenses will total \$270,000, on an annual basis (9MFRs x \$30,000).

¹ \$8,000 (for data center hosting for the physical server) + \$12,000 (for system and database administrator support) + \$10,000 (for web/application developer support) = \$30,000.

The Agency previously estimated one-time startup costs that manufacturers would assume in order to meet certain technical access requirements to provide recall information to NHTSA's website. We estimated that the total one-time costs to the industry from these technical access requirements would require 1,914 burden hours (27 MFRs x 72 hours) and total \$189,270 (27 MFRs x \$7,010) and we are now removing these costs from this information collection.

The Agency previously estimated one-time startup costs manufacturers incurred to create a VIN list for 15 years of recall information. We estimated that the total one-time costs to the industry from this VIN list creation would require 1,620 hours (27 MFRs x 60 hours). We are now removing these costs from this information collection.

Changes to 49 CFR Part 573 in 2013 required 27 manufacturers to update each recalled vehicle's repair status no less than every 7 days, for 15 years from the date the VIN is known to be included in the recall. This ongoing requirement to update the status of a VIN for 15 years continues to add a recurring burden on top of the one-time burden to implement and operate these online search tools. We calculate that 8 affected motorcycle manufacturers will make recalled VINs available for an average of 2 recalls each year and 19 affected light vehicle manufacturers will make recalled VINs available for an average of 8 recalls each year. We believe it will take no more than 1 hour, and potentially much less with automated systems, to update the VIN status of vehicles that have been remedied under the manufacturer's remedy program. We continue to estimate this will require 8,736 burden hours per year (1 hour x 2 recalls x 52 weeks x 8 MFRs + 1 hour x 8 recalls x 52 weeks x 19 MFRs) to support the requirement to update the recalls completion status of each VIN in a recall at least weekly for 15 years.

As the number of Part 573 Recall Reports has increased in recent years, so has the number of quarterly reports which track the completion of safety recalls. Our previous estimate of 3,000 quarterly reports received annually is now revised up to an average of 3,800 reports annually. The quarterly reporting burden now totals 15,200 hours (3,800 quarterly reports x 4 hours/report).

NHTSA's last update to this information collection established a new online recalls portal for the submission of recall documents. We continue to estimate a small burden of 2 hours annually in order to set up a manufacturer's online recalls portal account with the pertinent contact information and maintaining/updating their account information as needed. We estimate this will require a total of 550 hours annually (2 hours x 275 MFRs).

Also updated in the last revision to this information collection, NHTSA established a requirement that manufactures change or update recall components in their Part 573 Safety Recall Report. We continue to estimate that 20 percent of Part 573 reports will involve a change or addition. At 30 minutes per amended report, this totals 86 burden hours per year (854 recalls x .20 = 171 recalls; 171 / 2 = 86 hours).

As to the requirement that manufacturers notify NHTSA in the event of a bankruptcy, we expect this notification to take an estimated 2 hours to draft and submit to NHTSA. We continue to estimate that only 10 manufacturers might submit such a notice to NHTSA each year, so we calculate the total burden at 20 hours (10 MFRs x 2 hours).

We continue to estimate that it takes manufacturers an average of 8 hours to draft their notification letters, submit them to NHTSA for review, and then finalize them for mailing to their

affected owners and purchasers. We estimate that the 49 CFR Part 577 requirements result in 6,832 burden hours annually (8 hours per recall x 854 recalls per year).

The estimate associated with the regulation which requires owner notifications within 60 days of filing a Part 573 Safety Recall Report remains must similarly be revised with an increase in recalls. We previously calculated that about 25 percent of past recalls did not include an owner notification mailing within 60 days of the filing of the Part 573 Safety Recall Report. However, recent trends show that only about 10 percent of recalls require an interim owner notification mailing. Under the regulation, manufacturers must send two letters in these cases: an interim notification of the defect or noncompliance within 60 days and a supplemental letter notifying owners and purchasers of the available remedy. Accordingly, we estimate that 680 burden hours are associated with this 60-day interim notification requirement (854 recalls x .10 = 85 recalls; 85 recalls times 8 hours per recall = 680 hours).

As for costs associated with notifying owners and purchasers of recalls, we continue to estimate this costs \$1.50 per first class mail notification, on average. This cost estimate includes the costs of printing, mailing, as well as the costs vehicle manufacturers may pay to third-party vendors to acquire the names and addresses of the current registered owners from state and territory departments of motor vehicles. In reviewing recent recall figures, we determined that an estimated 58.4 million letters are mailed yearly totaling \$87,600,000 (\$1.50 per letter x 58,400,000 letters). The requirement in 49 CFR Part 577 for a manufacturer to notify their affected customers within 60 days would add an additional \$8,760,000 (58,400,000 letters x .10 requiring interim owner notifications = 5,840,000 letters; 5,840,000 x \$1.50 = \$8,760,000). In total we estimate that the current 49 CFR Part 577 requirements cost manufacturers a total of

\$96,360,000 annually (\$87,600,000 owner notification letters + \$8,760,000 interim notification letters = \$96,360,000).

Due to the past burdens associated with the requirement that certain vehicle manufacturers setup VIN Look-up systems for their recalled vehicles, many burden hours have been removed from this information collection as these burdens and costs have already occurred. However, given the recent increase in the number of safety recalls the Agency administers yearly and the volume of products included in those recalls, this information collection burden hour total is increased from previous estimates. The 49 CFR Part 573 and 49 CFR Part 577 requirements found in today's rule will require 46,965 hours each year for OMB Control Number 2127-0004, an increase of 827 burden hours. Additionally, manufacturers impacted by 49 CFR Part 573 and 49 CFR Part 577 requirements will incur a recurring annual cost estimated at \$96,630,000 total.

Estimated Number of Respondents –

NHTSA receives reports of defect or noncompliance from roughly 275 manufacturers per year. Accordingly, we estimate that there will be approximately 275 manufacturers per year filing defect or noncompliance reports and completing the other information collection responsibilities associated with those filings.

In summary, we estimate that there will be a total of 275 respondents per year associated with OMB No. 2127-0004.

Gregory K. Rea
Associate Administrator for Enforcement

Billing Code: 4910-59-P

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